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78. (New) A transfer resistant cosmetic composition according to claim 50,
wherein said additional film former is an Allyl Stearate/VA copolymer film former.

REMARKS

I. Status of the Claims

Claims 1-78 are pending in this application. Group I, claims 49 and 50, are elected with traverse. Claim 50 has been amended to be stand as an independent claim. Claims 67-78 have been added as dependent to claims 49 and 50 and should be examined as part of Group I. Support for each of the new claims and the amendment of claim 50 can be found in the specification and claims as originally filed. Accordingly, these amendments do not raise any new issues or necessitate the undertaking of any additional search of the art by the Examiner. All of the elements and their claimed relationships were earlier recited in the claims as examined.

II. RESPONSE TO RESTRICTION REQUIREMENT

In the Office Action, the Examiner required restriction under 35 U.S.C. § 121 between the following groups of claims:

- | | |
|------------------|---|
| Group I | Claims 49 and 50, drawn to a cosmetic composition, classified in class 424, subclass 401; |
| Group II | Claims 51-55, drawn to a water-in-oil emulsion, classified in class 514, subclass 937; |
| Group III | Claims 56-59, drawn to eyeliner, classified in class 424, subclass 63; and |
| Group IV | Claims 60-62, drawn to a composition, classified in class 514, subclass 70.7; |

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Group V Claims 63 and 64, drawn to a composition, classified in class 514, subclass 846.

Group VI Claims 65 and 66, drawn to a composition, classified in class 514, subclass 64.

Applicants respectfully traverse the restriction requirement. However, to be fully responsive to the restriction requirement, Applicants elect, with traverse, the invention of Group I, Claims 49 and 50.

Applicants respectfully refer the Examiner to M.P.E.P. § 803, which sets forth the criteria and guidelines for examiners to follow in making proper requirements for restriction. The M.P.E.P. instructs the Examiner as follows

If the search and examination of an entire application can be made without serious burden, the Office must examine it on the merits, even though it includes claims to independent or distinct inventions.

M.P.E.P. § 803 (emphasis added).

Here, Applicants respectfully submit that the Examiner has not demonstrated that examining Groups I-V together will constitute a serious burden, despite the assertion that "the combination as claimed does not require the particulars of the subcombination as claimed because cosmetic composition could be a sunscreen or deodorant product." The Examiner asserts that "[t]he subcombination has separate utility such as an emulsion, eyeliner, mascara, lotion or lipstick. Applicants respectfully submit that a search of Groups I-V would not be burdensome, as all of the claims recite transfer resistant composition comprising, inter alia, an effective amount of at least one copolymer film former and at least one additional film former. Thus, the search and

examination of Group I should substantially, if not completely, overlap the necessary search and examination for Groups II-V.

In view of the foregoing remarks, Applicants respectfully submit that the restriction requirement is in error and request that it be withdrawn.

III. Conclusion

Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Appendix

Version with markings to show changes made pursuant to 37 C.F.R. § .121(c)(1)(ii):

--50. (Amended) A transfer resistant cosmetic composition [according to claim 49] comprising:

(a) an effective amount of at least one copolymer film former selected from tri-block, multi-block, and radial copolymers, and

(b) at least one additional film former, wherein said at least one additional film former is not a block copolymer film former,

with the proviso that said at least one additional film former (b) is not an alkyl cycloalkylacrylate, and

wherein said transfer resistant cosmetic composition [at least one copolymer film former] comprises at least one radial copolymer film former and at least one tri-block copolymer film former.